

My testimony before the Local Court of Cochem
22 January 2020

Dear Judge Zimmermann,
Dear public prosecutor
Dear trial observers

Preliminary remark

First of all, I would like to thank you for giving us the right to be heard and for allowing us to present our reasons and arguments in relation to the allegation.

As we are convinced that the storage of nuclear weapons on German soil and daily exercises in the field concerning use of these nuclear weapons violate or break national and international law, I will focus on this in my statement.

But before I do so, I would like to explain how my peace policy commitment against nuclear weapons and nuclear energy came about. I will embed this historically to show how long we have all been fighting against nuclear weapons, and indeed at the international level.

I will then address our protest against nuclear weapons, in particular the dangers and violations of international humanitarian law and other treaties.

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A) Biographical and historical background

I was born during World War II and as a child I experienced the effects of the war, but I was lucky enough to have had a non-violent upbringing. I heard about the many dead, but none of those who came back from the war had killed a person. I began to doubt the truth of the stories. To this day I know only three people who confessed to having killed a man back then.

Later in my studies I was engaged in peace and conflict research and was influenced in my thinking by people like Martin Luther King, Mahatma Gandhi, Johann Galtung, Carl von Ossietzky and other theorists and practitioners of peace work. In Göttingen, where I studied, the "Declaration of the Eighteen" was, of course, known to nuclear scientists in the 1970s, who formulated their declaration on 12.4.1957:

"For a small country like the Federal Republic of Germany, we believe that the best way to protect itself and promote world peace today is to renounce the possession of nuclear weapons explicitly and voluntarily. In any case, none of the signatories would be willing to participate in the production, testing or use of nuclear weapons in any way".

(signed by Max Born, Otto Hahn, Werner Heisenberg and Carl Friedrich von Weizsäcker, to name but a few well-known names)

Seven years earlier, in the Stockholm Appeal (March 19, 1950), the World Peace Council had already called for "an absolute ban on nuclear weapons as a weapon of terror and mass destruction of the population" and had expressed the view that "the government which is the first to use nuclear weapons against any country commits a crime against humanity and should be treated as a war criminal.

These and other appeals faded away. The Federal Republic was not allowed to possess any nuclear weapons itself, but through nuclear sharing it gained control over U.S. nuclear weapons in Germany. Both the protest movement "Fighting Nuclear Death" and later the Easter marches, in which I participated across borders with the Dutch, were unable to prevent this. The Cold War began and culminated on 12 December 1979 with the NATO double decision to station 572 new American medium-range missiles in Europe. The USSR renewed its SS-4/SS-5 medium-range missiles with SS-20's. The danger of a nuclear war in Europe was consciously heard by everyone and led to renewed mass protests.

The German government, as well as the government of the GDR, distributed gas masks in factories, schools and kindergartens as a precautionary measure and advised the population to throw themselves behind walls and to hold a bag over their heads for protection. In the Federal Republic, public and private disaster control was promoted. Everyone should take precautions by keeping adequate supplies, emergency luggage and securing documents. In schools, self-protection exercises were carried out and pupils were told to hide under tables and benches, to hold their school bags over their heads or to cover themselves with aluminium foil in case of an emergency. This "truth" also had to be doubted, because it was a brazen lie,

There is no effective protection in case of an atomic explosion.

I had completed my studies and was working at a Special Education school in XXXXX at the time. According to the Preamble of the Basic Law and the Lower Saxony School Law, one of the topics I dealt with in class in the 80s was the danger of nuclear war. The pupils knew that in World War II the numerous bunkers in the city saved the lives of the people. Three of these bunkers had now been made "nuclear bomb proof". The forewarning of an atomic attack was only a few minutes, so that none of them could have reached any of the bunkers.

On the suggestion of a pupil to build a bunker right next to a school similar to the one in Hamburg, a pupil replied: "They will never do that! They'll be glad when we're gone!"

What experiences had this 12 year old boy had in his life that he felt his life was worthless? What discrimination had he experienced as a person who had failed in the normal school system? and, what should I answer him, where a health safety law told doctors to sort out the people and only save those who were worth saving. Handicapped people, old people and sick people had no chance anyway.

My answer could only be: to stand up even more resolutely for the outlawing and abolition of all nuclear weapons without violence, so that no one is injured in his dignity and no one is deprived of the basic right to life. This is what I have been working for in the peace movement for 40 years now.

B) My/our protest against nuclear weapons

I. On the basic right to demonstrate

If I entered the area of the airbase Büchel together with others on 15.7.2018--which I do not deny--this happened in full consciousness, making use of my basic right to freedom of opinion and assembly according to article 8 GG in connection with article 5 GG, in order to, at the place of the event

- 1) to the enormous danger posed by the nuclear bombs stored there and
- 2) to draw attention to the unlawful storage of nuclear weapons on German soil and the daily operational exercises by German soldiers.

"The right to assemble with others without hindrance and without special permission", the Federal Constitutional Court in its Brockdorf decision of 14.5.1985 considered "as a sign of the freedom, independence and maturity of the citizen". Freedom of assembly, understood as the freedom to express one's opinion collectively, is "as the most direct expression of the human personality one of the most noble human rights of all, which is constitutive for a free democratic basic order". And further it says:

"Especially in democracies with a parliamentary representative system and few plebiscitary rights of participation, the freedom of assembly has the significance of a fundamental and

indispensable functional element... Demonstrative protest can become particularly necessary if the representative bodies do not recognise possible grievances and undesirable developments or do not recognise them in time or accept them out of consideration for other interests. (BVerfG 14.5.1985, Vol. 69, pp. 315ff and 345ff)

II. Points of the protest

1.) Threat from nuclear weapons

1.1 Warning from Hiroshima and Nagasaki

The deaths of Hiroshima and Nagasaki (200,000 civilians) have shown the world the extent of the destruction caused by nuclear bombing. Since then, a multiple of tactical and strategic nuclear weapons have been in existence (approximately 14,000), 1800 of which are on constant alert, which if deployed would cause a nuclear winter and wipe out all life on this planet. Therefore, on 25 January 2018, nuclear scientists set the Doomsday Clock to "2 minutes to midnight" and called on everyone to make every effort to prevent a nuclear catastrophe.

1.2. nuclear weapon in Büchel

The nuclear weapons stored in Büchel are to be replaced in 2027 by new, precisely targeted nuclear weapons. This further increases the risk of deployment, because those responsible assume that they could limit the damage by these controllable weapons.

1.3 Pentagon Paper: "Nuclear Operations" / Maneuvers

How great the current danger of a nuclear inferno is, is shown by a document of the Pentagon of 11.6. 2019 with the title "Nuclear Operations", in which the basic principles and guidelines for the planning, implementation and evaluation of nuclear "operations" are presented. The planners assume that a nuclear war can be won and continue to adhere to the nuclear first strike doctrine, because the paper states

"The use of nuclear weapons could create the conditions for decisive results and the restoration of strategic stability. In particular, the use of a nuclear weapon will fundamentally alter the scale of a battle and create conditions that will influence how commanders will prevail in a conflict".

(quoted in Ossietzky No. 14/2019, p. 492f)

As a result, 4 months later during the NATO manoeuvre "Steadfast Noon" from 14-18.10.2019, not only the deployment of the fighter bombers was trained, but also the transport of the nuclear weapons from underground magazines to the airplanes and the assembly of them. Among others, the Bundeswehr Air Wing 33 with its Tornado jets from Büchel was involved in this. (Young World, 19/20.10.2019)

In addition, the manuscript of the annual meeting of the Joint Air Power Competence Centre (JAPCC) in Essen in 2017 already suggested "lowering the threshold to nuclear

war and considering a renaissance of nuclear medium-range forces". Representatives of the Federal Government, military and business leaders do not oppose this.) quoted in Ossietzky Nr.4/2019, p.132)

1.4 Nuclear weapons kill before they can be used

Through the production of nuclear weapons, the health and lives of thousands of people have already been and are being endangered or destroyed. The expulsion of people and the destruction of their livelihoods through contaminated water in uranium mining areas, the damage to workers in nuclear-weapons factories through toxic substances, the radiation of people and nature, during nuclear tests and last but not least the squandering of resources and money that are lacking elsewhere means that nuclear weapons also kill before they are used.

1.5 Nuclear accidents

Accidents involving nuclear weapons cannot be ruled out, nor can airplane crashes. Above all, however, mistakes in the early warning system endanger the lives of countless civilians through nuclear war by mistake. One only has to remember 26.9.1983, when the Soviet early warning system reported the launch of an American intercontinental missile, which Lieutenant Petrow fortunately interpreted as a false alarm and did not pass it on, thus preventing a nuclear war. At present, the danger of an accidental nuclear war has increased dramatically due to complex computer systems, climate change and increasing crisis.

1.6 Decades of efforts to outlaw them

I wanted to draw attention to all these dangers with my protest on 15.7.2018. The many demonstrations, blockades, appeals, Petitions and talks with members of the Bundestag, even the talks in Brussels at the NATO headquarters (2012), where I rode my bicycle over 1000 km, with representatives from Germany, the Netherlands and Belgium, did not lead to a change of thinking and a turning away from the nuclear strategy. Even the resolution of the German Bundestag of 26.3.2010 to end the stationing of American nuclear bombs on German soil has not been implemented to date. The majority of Germans feel threatened by nuclear weapons and want them to be banned and withdrawn from Germany. (Greenpeace poll of August 2019)

1.7 My conclusions drawn from this

This a very special state of emergency. Better said: I cannot reconcile these insane dangers with my conscience, knowing about the suffering of the people and daily deaths in different places of the world, nor can I continue to watch how the death machinery is maintained, which I co-finance by force with my taxes. (The federal government has so far failed to enact a law of conscientious objection to military taxes in the sense of a peace tax similar to the possibility of community service).

Therefore I decided to take this non-violent way and entered the military area. So I demonstrated "at the scene of the crime", i.e. not somewhere far away from the action, where one is not perceived--as the basic right to demonstrate guarantees. To reach

into the spokes of the wheel and do what is necessary--that is what I had learned from Dietrich Bonhoeffer in my early years. The means used was appropriate, because no one was endangered by it, but it can prevent future suffering if our concern is listened to, the atomic bombs are withdrawn and the Federal Government ratifies the Nuclear Non-Proliferation Treaty. The history of the non-violent movements shows that in the long term they are almost twice as successful as military intervention because they are solution-oriented. (Study by Erica Chenoweth and Maria J. Stephan, 2011)

2.) Violation of International Law of Nuclear Weapons / Violation of Treaties

2.1 International Court of Justice The Hague

The question of whether the use of nuclear weapons is in conformity with international humanitarian law was clarified by the International Court of Justice in The Hague in its opinion of 8.7.1996, which clearly stated that both the threat and the use of nuclear weapons are "generally" / "in principle" contrary to international law,

- because there's no distinction between combatants and civilians,
- unnecessary suffering cannot be avoided, and
- effects on neutral states cannot be ruled out.

The Federal Republic of Germany is bound by the primacy of international law. (Basic Law Article 25, para. 1) This must be combined with the Additional Protocol Art. 36, para. 3 and Article 55 of the Geneva Convention, which prohibit long-term and far-reaching environmental damage. Radiation damage is not only long-lasting, it even alters the genetic make-up. The ICJ affirms the application of environmental law in parallel with international humanitarian law and bases this on Principle 24 of the Rio Declaration, which calls for respect for international law, including in armed conflicts

2.2 Violation of the Non-Proliferation Treaty

The Federal Government signed the NPT (Non-Proliferation Treaty), which came into force in 1970, and as a non-nuclear weapons state has undertaken not to directly accept any nuclear weapons or the power to dispose of them, to produce them itself or to acquire them in any other way. (NPT Art. II) By making the military site in Büchel available to the Americans for the stationing of nuclear weapons, the Federal Government (as well as the USA) is already violating the NPT Treaty (Art. I and II)

2.3 Infringement of the 2+4 contract

In addition, German Air Force pilots train in the use of nuclear weapons in the context of nuclear sharing. They are involved in NATO planning, including the definition of objectives. In the event of war, the power of disposal would be transferred to the German pilots. Thus the Federal Republic is not only violating the NPT Treaty, but also the 2+4 Treaty, Art. 3, in which it expressly renounces the production, possession and power of disposal of nuclear weapons and emphasized the continued existence of the NPT Treaty for the united Germany.

2.4 Service regulations for soldiers (pocket card)

If the pilots were to carry out the order to go into action, they would be liable to prosecution, because: it is forbidden to use nuclear weapons as weapons of war. According to the Basic Law, Art. 25 para. 1 and the service regulations (pocket card p. 3 and p. 5), each individual is "personally responsible for complying with the rules of international humanitarian law". "His superiors may only give orders in accordance with the rules of international law." So the pilot would have to refuse to carry out the order.

2.5 Violation of article 26, paragraph 1 GG

Against the background of the NATO doctrine, the daily systematic training of the dropping of atomic bombs is tantamount to a threat to use them, which is contrary to international law and also violates the German constitution (GG Art. 26 para. 1), which prohibits "disturbing the peaceful coexistence of peoples, in particular preparing to wage a war of aggression".

2.6 My conclusion

My demonstrative protest was necessary--also because of this violation of international law-- and justified by the Brockdorf judgement quoted above, because both the government and the courts have so far taken no action to stop the action in the context of nuclear sharing that is contrary to international law.

2.7 Right to Resist

Apart from the basic right to demonstrate, our constitution guarantees in Art. 20, para.4 every German the right of resistance against those who undertake to eliminate the constitutional basic order, if other remedies are not possible. The disregard/non-compliance with the principles enshrined there and in the 2+4 Treaty, as well as the negation of higher international law and the Geneva Convention, undermine the constitutional principles and thus ultimately contribute to their elimination. The Nuremberg Principles (Articles 1 and 7) also demand that this be resisted, for complicity in "crimes against peace" and "against humanity" is also a breach of international law and therefore punishable.

III On the Criminal Accusation

1.) No serious criminal offenses

We are accused of trespassing and damage to property. Neither of these are serious criminal offenses - and what is important - they were committed without any socially damaging consequences.

2.) Weighing against the basic right to demonstrate

It is not for nothing that I have explained in detail why these crimes were committed. This is to make it clear that, when weighing these crimes against the dangers of nuclear bombs and weighing the violation of international law with the fundamental right to demonstrate, the right to demonstrate must clearly be given priority.

3.) Termination of the proceedings / better said: acquittal

I therefore ask for acquittal, at least to discontinue the proceedings. There is no public interest in a conviction, which leads you to conclude that the majority of Germans are in favor of the proscription and withdrawal of nuclear weapons (see 1.6 above). My offense (my "guilt") is minor, because after having carefully and comprehensively informed myself about the dangers of atomic bombs, I have made the decision of conscience to exercise my right to demonstrate on the spot and am clearly against this atomic danger.

C) Concluding words on the criminal proceedings in Cochem

I'm scared. I'm afraid to burn. Too many people have been burned by human action and inaction!

I feel violated by the nuclear weapons in my right to life (GG Art. 2, Abs. 2) and in my dignity (GG Art. 1, Abs. 1). My individual right to peace, as laid down by the General Assembly of the UN on 19/12/2016, is disregarded.

In view of the fact that the bomber pilots of Hiroshima and Nagasaki, General Paul Tibets and Major Claude Eatherly remain unpunished, and that General Tibets was still convinced in 2000 to "do it again" (Emder Zeitung, 4.11.2000), I appeal for my acquittal for entering the military area.

My childhood is marked by the effects of World War II. The question: Why didn't you intervene when there was still time? springs up me and many of my generation until today. And so I conclude with a poem by Erich Fried.

Conversation with a Survivor
(Erich Fried)

What did you do then
that you shouldn't have done?
"Nothing"

What didn't you do
that you should have done?
"This and that
and this and that:
and then some"

Why didn't you do that?
"Because I was afraid"
Why were you afraid?
Because I didn't want to die."

Have others died
because you didn't want to die?
"I believe
yes"

Do you have anything else to say
to what you didn't do?
"Yes: To ask you
What would you have done in my place?"

I do not know.
and I can't judge you.
I only know one thing:
Tomorrow not one of us
will be alive
if today we
do nothing again.